



MEMO ENDORSE

Mr. Raul Davis

I.D. # 03-A-2219

Green Haven Correctional Facility

P.O. Box 4000

March 4th. 2008

United States District Court

Clerk of Court Mr. J. Michael Mc Mahon c/o  
 Hon. Sidney H. Stein; Magistrate, F. Maas  
 500 Pearl Street Re: 07 Civ. 9265(SHS)(FM)  
 N.Y. N.Y. 10007

Robert T. Johnson;  
 District Attorney, c/o ADA Mary Jo Blanchard  
 Bronx County  
 198 East 161st Street  
 Bronx N.Y. 10451

Dear Court Clerk Mr. Mc Mahon

Good Day, during the month of February, I forwarded a letter to this Court, in c/o The Hon Sidney Stein, and Magistrate, Mr. Frank Maas, respectfully requesting that the Habeas corpus application I filed, be dismissed, (without prejudice); with permission to refile; with all the claims, because I did not include a claim, which I am seeking federal review of.

Sir, about a week later; on Feb, 21th I received the respondent's affirmation in opposition, and I am in the process of preparing a reply, to the allegations in their affirmation.

I am now, respectfully requesting that this Court grant this request for an extention to reply to the respondents affirmation.

My preliminary review of Mr. Davis' petition, this letter and his prior letter, and the respondent's opposition papers establishes that the only arguably unexhausted claim is Mr. Davis' excessive sentence claim. (The respondent argues that this claim was not presented in constitutional terms.) Contrary to what a prison law clerk suggested, it would be foolhardy for Mr. Davis to dismiss his entire petition so that he can pursue exhaustion. See Zarvela v. Artuz, 254 F.3d 374 (2d Cir. 2001). Moreover, the respondent addressed the merits of this claim. I therefore will do the same when I prepare my Report and Recommendation. In the interim, Mr. Davis may submit his reply on or before April 18, 2008.  
 F. Maas, USMS, 3/18/07

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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RAUL DAVIS, :  
: :  
Petitioner, :  
: :  
-against- : 07 Civ. 9265 (SHS)(FM)  
: :  
ROBERT ERCOLE :  
: :  
Respondent, :  
-----X

AFFIRMATION

I The Petitioner In The above proceedings swears under the  
panalty of perjury that on March 12th I sent (1) copy each to the  
Bronx District Attorney's office, And to the Southern District  
Court.

ONE LETTER REQUESTING EXTENTION FROM THE SOUTHERN DISTRICT COURT.

*Raul Davis*